

Appl. No.: 10/585,166
Amdt. Dated: August 24, 2010
Reply of Office action of April 26, 2010

Docket No. COBR-11093

REMARKS

Claims 126, 127, and 129-131 are currently pending in the application. Applicant has amended claims 126, 127, and 129, canceled claim 128, and added claims 130 and 131. Support for claims 130 and 131 can be found throughout the specification, particularly on pages 50 and 51 of the specification, as originally filed. Applicant requests reconsideration of the application in light of the following remarks.

Telephone Interview

Applicant's attorney wishes to thank the Examiner for his courtesy and time during a telephone interview that was held on July 28, 2010. The Examiner's comments and insight were very helpful in preparing this response. It is hoped that the comments below reflect the spirit of the interview. In particular, the Gibbs reference was discussed and the language "the intersection of the first and second coils are attached to form an internal truss defined by" was inserted in independent claim 126.

Objections to the Specification

The specification has been objected to for containing informalities. Applicant has amended the specification on page 51 to address the Examiner's concerns regarding element 623. Applicant respectfully requests that the Examiner withdraw the objection to the specification.

Objections to Claims

The numbering of the claims has been objected to. The Examiner appears to have renumbered the claims thus obviating the above objection. Further, in accordance with this objection, the claims have been amended to comply with the examiner's suggestions. Applicant respectfully requests that the Examiner withdraw the objection to the specification.

Rejections under 35 U.S.C. §112

Claims 126-129 stand rejected by the Examiner under 35 U.S.C. 112. In accordance with this rejection, the claims have been amended to comply with the examiner's suggestions and are now believed to conform with Section 112. Applicant respectfully requests that the rejection of claims 126-129 under 35 U.S.C. § 112 be withdrawn.

Rejections under 35 U.S.C. §102

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claims 126-129 were rejected under 35 U.S.C. § 102(b) as being anticipated by Kirsch et al. (U.S. Patent No. 3,070,946, hereinafter "Kirsch"). Applicant respectfully traverses this rejection and requests reconsideration of the claims.

Kirsch discloses “adjacent convolutions of each coil are joined together at circumferential spaced intervals.” See claim 1.

There is no disclosure in Kirsch of “the second coil intersecting the first coil in at least partially overlapping side by side relation,” as recited in claim 126. There is clearly no overlapping. Further, there is no disclosure in Kirsch of “the intersection of the first and second coils are attached to form an internal truss defined by portions of the first and second coils wherein the internal truss forms a generally upright linear configuration as viewed from an axial end in a deployed state,” as recited in claim 126. There is no internal truss formed when the coils are joined together circumferentially.

Claims 126-128 were rejected under 35 U.S.C. § 102(b) as being anticipated by Sieffert (U.S. Patent No. 3,155,374, hereinafter “Sieffert”). Applicant respectfully traverses this rejection and requests reconsideration of the claims.

Sieffert discloses an outer wire wound in a coil of relatively large diameter and an inner wire wound in a coil of less diameter than the coil of outer wire, the inner and outer wire convolutions being such that there is a free space of substantial dimension within said inner wire and between said inner wire and said outer wire. See claim 1.

There is no disclosure in Sieffert of “the intersection of the first and second coils are attached to form an internal truss defined by portions of the first and second coils wherein the internal truss forms a generally upright linear configuration as viewed from an axial end in a deployed state,” as recited in claim 126. There is no overlapping and attachment between the outer wire wound in a coil and the inner wire wound in a coil.

Claims 126-129 were rejected under 35 U.S.C. § 102(e) as being anticipated by Gibbs (U.S. Patent No. 7,325,787, hereinafter “Gibbs”). Applicant respectfully traverses this

rejection and requests reconsideration of the claims. Note the filing of the related provisional application 60522724 is November 2004.

Gibbs discloses “[a] barrier, comprising: a structure having first and second sides and further comprising: an outrigger system supported by the structure, said outrigger system comprising a plurality of spaced first arms projecting toward the first side of the structure and a plurality of spaced second arms projecting toward the second side of the structure; a first barrier tape positioned on the structure, the first barrier tape characterized by a plurality of loops, each such loop having a substantially elliptical shape and a major axis length exceeding minor axis length; and a second barrier tape positioned on the structure, the second barrier tape characterized by a plurality of loops, each such loop having a substantially elliptical shape and a major axis length exceeding minor axis length; in which the shapes of the loops of the first and second barrier tapes overlap at the lower ends of their respective loops, in which a loop of the second barrier tape is interstitially positioned between adjacent loops of the first barrier tape in the area of overlapping shapes, and in which the first barrier tape is supported by the first arms, and in which the second barrier tape is supported by the second arms.” See claim 1. Gibbs is strictly structure mounted, such as a fence, gate or wall mounted.

There is no disclosure in Gibbs of “the intersection of the first and second coils are attached to form an internal truss defined by portions of the first and second coils wherein the internal truss forms a generally upright linear configuration as viewed from an axial end in a deployed state,” as recited in claim 126. The loops of Gibbs are not attached. In Gibbs, the loop of the second barrier tape is interstitially positioned between adjacent loops of the first barrier tape. Furthermore, the first and second barrier tapes of Gibbs are positioned, or attached, on the fence structure and not to each other.

Thus, the Sieffert, Kirsch and Gibbs references lack the positive recitation required of an anticipating reference. Applicant respectfully requests that the anticipation rejections of claims 126-129 be withdrawn.

Rejections under 35 U.S.C. §103

To establish a *prima facie* case of obviousness under 35 U.S.C. §103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the cited prior art reference must teach or suggest all of the claim limitations. Furthermore, the suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based upon the Applicants' disclosure. A failure to meet any one of these criteria is a failure to establish a *prima facie* case of obviousness. MPEP §2143.

Claims

Claim 129 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Sieffert (U.S. Patent No. 3,155,374, hereinafter "Sieffert"). Applicant respectfully traverses this rejection and requests reconsideration of the claims.

Application of Sieffert is the same as set forth, *supra*.

If an independent claim, such as claim 126, is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is also nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Applicant respectfully asserts, based on the arguments provided *supra*, that claim 129 is nonobvious.

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Applicant respectfully requests that the obviousness rejection of claims 129 be withdrawn.

Regarding Doctrine of Equivalents

Applicant hereby declares that any amendments herein that are not specifically made for the purpose of patentability are made for other purposes, such as clarification, and that no such changes shall be construed as limiting the scope of the claims or the application of the Doctrine of Equivalents.

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CONCLUSION

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

It is requested that a one month extension of time be granted for the filing of this response, and the appropriate extension filing fee of \$65 is enclosed herewith.

If any fees, including extension of time fees or additional claims fees, are due as a result of this response, please charge Deposit Account No. 19-0513. This authorization is intended to act as a constructive petition for an extension of time, should an extension of time be needed as a result of this response. The examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

Date: August 24, 2010

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